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9 ON SIGNATURE PAGE]

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15 **Attorneys for Defendant**
16 **ABBOTT LABORATORIES**

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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 IN RE ABBOTT LABS NORVIR) No. C-04-1511 CW
20 ANTITRUST LITIGATION)
21) STIPULATION BY PARTIES PROPOSING
21) THIRD MODIFIED LITIGATION
22) SCHEDEULE AND ORDER THEREON AS
22) **MODIFIED**
23)
24)
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26)
27)
28)

RECITALS

WHEREAS, pursuant to an earlier Stipulation of the parties dated September 14, 2006, approved by an Order of the Court dated September 22, 2006, the Court approved a modified litigation schedule that had been agreed to by the parties;

WHEREAS, the Court also issued an order on September 25, 2006 adopting the schedule that was the subject of the court-approved stipulation on September 22, 2006;

WHEREAS, on July 2, 2007, the Court approved a second modified litigation schedule;

8 WHEREAS, on December 13, 2007, the Court issued an order denying plaintiffs' motion
9 to estop defendant from asserting an invention date other than December 2, 1993, but, as part of
10 that order, the Court stated that it would give Plaintiffs an opportunity to respond to the invention
11 date of December 29, 1992 asserted by Abbott for its '036 patent and asked the parties to propose
12 a new schedule that would give them an adequate opportunity to complete expert discovery before
13 initiating the dispositive motion process;

14 WHEREAS, Plaintiffs have informed Defendant that they need additional time to perform
15 patent-related research concerning the December 29, 1992 invention date for the '036 patent for
16 the purpose of preparing a supplemental expert report;

17 WHEREAS, Plaintiffs have informed Defendant that because of Dr. Paul Volberding's
18 extremely busy schedule, including overseas travel, Plaintiffs need until February 4, 2008 to
19 complete his supplemental expert report;

20 WHEREAS, because Dr. Volberding is presently overseas and unavailable for
21 consultation concerning his schedule, the parties have agreed that, following completion of his
22 supplemental expert report, they promptly will confer with each other concerning the
23 supplemental expert report and discuss the necessity of conducting a further deposition of Dr.
24 Volberding, as well as a schedule for conducting such deposition, and, if no such agreement can
25 be reached, then the matter may be submitted to the Court on an expedited basis for its
26 determination.

1 WHEREAS, the parties anticipate resolving certain issues relating to the form of Class
2 Notice and are hopeful that this may be done by stipulation, and to that end seek to continue the
3 hearing presently scheduled for January 10, 2008 to January 31, 2008;

4 WHEREAS, the parties agree that a modest extension of the trial date is necessary to
5 complete the aforementioned expert discovery – which will be limited to a prior art search relating
6 to the '036 patent – and the parties have expressed to each other that it is in their respective
7 interests that a trial in this matter be concluded in 2008.

8 WHEREAS, Defendant has agreed that it will not raise an objection if Plaintiffs seek an
9 order from the Court requesting permission to file an amicus brief on February 14, 2007 in
10 connection with the motion to dismiss in the related cases addressing the Ninth Circuit's decision
11 in *Cascade Solutions v. Peacehealth, et al.*, 502 F.3d 895 (9th Cir. 2007).

12 WHEREAS, the following chart is provided to the Court for ease of reference in
13 comparing the events now being proposed (Column 1), the Related Case Calendar (Column 2),
14 the Current Calendar (Column 3), and the new SEIU/Doe Proposed Revised Schedule (Column
15 4):

1 EVENT (Includes Proposed New & Modified Events)	2 RELATED PARTY CALENDAR	3 SEIU/DOE CURRENT MOTION/TRIAL DATE CALENDAR	4 SEIU/DOE PROPOSED REVISED SCHEDULE
	<i>January 11, 2008</i> <i>Consolidated amended complaint</i>		
Last Day for Abbott's Opposition (Response) to Plaintiffs' Motion for Order Approving Proposed Notice of Class Certification		01/20/07	01/10/08
Last Day for Plaintiffs' Reply in support of Proposed Notice of Class Certification		01/27/07	01/17/08
Hearing on Motion For Proposed Notice of Class Certification		01/10/08	01/31/08
	<i>January 31, 2008</i> <i>Motion to Dismiss</i>		
Plaintiffs Supplemental Expert Report			02/04/08

1 EVENT (Includes Proposed New & Modified Events)	2 RELATED PARTY CALENDAR	3 SEIU/DOE CURRENT MOTION/TRIAL DATE CALENDAR	4 SEIU/DOE PROPOSED REVISED SCHEDULE
Last day to File Abbott's Dispositive Motions and brief in support of claims construction (1 Brief)		01/09/08	02/13/08
Last Day to file Plaintiffs' opposition brief and cross-motion (1 brief)		02/13/08	03/18/08
	<i>February 14, 2007 Opposition to Motion To Dismiss</i>		
	<i>February 21, 2008 Reply ISO Motion To Dismiss</i>		
Last Day to file reply in support of Abbott's dispositive motion/claims construction and opposition to cross-motion		02/25/08	03/31/08
Last Day to file reply in support of Plaintiffs' cross-motion (dispositive motion/claims construction)		03/06/08	04/10/08
	<i>March 6, 2008 Hearing On Motion To Dismiss</i>		
Hearing on Summary Judgment and Claims Construction		03/20/08 2:00 p.m.	04/24/08 2:00 p.m.
Final Pretrial Conference		06/17/08 2:00 p.m.	07/22/08 2:00 p.m.
Jury Trial		06/30/08	08/04/08
	<i>July 3, 2008 Hearing on Class Certification</i>		
	<i>October 31, 2008 Fact Discovery Cutoff</i>		
	<i>March 31, 2008 Expert Discovery Cutoff</i>		

1 EVENT (Includes Proposed New & Modified Events)	2 RELATED PARTY CALENDAR	3 SEIU/DOE CURRENT MOTION/TRIAL DATE CALENDAR	4 SEIU/DOE PROPOSED REVISED SCHEDULE
	<i>January 11, 2010</i> <i>Trial</i>		

STIPULATION

NOW, THEREFORE, it is hereby stipulated among the parties that, subject to approval by the Court, the parties agree to the following revised proposed schedule:

EVENT	REVISED CALENDAR
Last Day for Abbott's Response to Plaintiffs' Motion for Order Approving Proposed Notice of Class Certification	01/10/08
Last Day for Plaintiffs' Reply in support of Proposed Notice of Class Certification	01/17/08
Hearing on Motion For Proposed Notice of Class Certification	01/31/08
Plaintiffs Supplemental Expert Report	02/04/08
Last day to File Abbott's Dispositive Motions and brief in support of Proposed claims construction (1 Brief)	02/13/08
Last Day to file Plaintiffs' opposition brief and cross-motion (1 brief)	03/18/08
Last Day to file reply in support of Abbott's dispositive motion/claims construction and opposition to cross-motion	03/31/08
Last Day to file reply in support of Plaintiffs' cross-motion (dispositive motion/claims construction)	04/10/08
Hearing on Summary Judgment and Claims Construction	04/24/08 2:00 p.m.
Final Pretrial Conference	08/05/08 2:00 p.m.
Jury Trial	08/18/08

1 All other orders governing pretrial preparation remain in effect.

2 Dated: December 20, 2007

Respectfully submitted,

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Dated: December 20, 2007

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**Attorneys for Defendant
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ORDER

IT IS SO ORDERED.

Dated:

Chadaleith

United States District Judge